

City of Morgan Hill



File #: 15-209, Agenda Date: 5/20/2015, Version: 1

CITY COUNCIL STAFF REPORT

MEETING DATE: MAY 20, 2015

PREPARED BY: T. Linder, Senior Planner/Community Development
APPROVED BY: City Manager

DEVELOPMENT AGREEMENT AMENDMENT DAA-05-01J: MISSION VIEW-MISSION RANCH; DEVELOPMENT AGREEMENT AMENDMENT DAA-06-04F: DIANA-SHERIMAR/MARTINEZ; DEVELOPMENT AGREEMENT AMENDMENT DAA-13-03: TILTON-KB HOME; DEVELOPMENT AGREEMENT AMENDMENT DAA-13-06: E. DUNNE-KB HOME; DEVELOPMENT AGREEMENT AMENDMENT DAA-13-07: E. MAIN-WILLIAM LYON HOMES; DEVELOPMENT AGREEMENT AMENDMENT DAA-13-09: BARNELL-CASSEL; DEVELOPMENT AGREEMENT AMENDMENT DAA-13-11: DEL MONTE-GIOVANNI

RECOMMENDATION(S):

1. **Open/close** Public Hearing
2. **Waive** First and Second Reading of Development Agreement Amendment Ordinances:
 - a. DAA-05-01J: Mission View-Mission Ranch
 - b. DAA-06-04F: Diana-Sherimar
 - c. DAA-13-03: Tilton-KB Home
 - d. DAA-13-06: E. Dunne-KB Home
 - e. DAA-13-07: E. Main-William Lyon Homes
 - f. DAA-13-09: Barnell-Cassel
 - g. DAA-13-11: Del Monte-Giovanni
3. **Introduce** Development Agreement Ordinances

COUNCIL PRIORITIES, GOALS & STRATEGIES:

Ongoing Priorities:

Maintaining fiscal responsibility

2015 Focus Areas

Stimulate Economic Development

REPORT NARRATIVE:

Each of the following Development Agreement Amendment requests were evaluated based upon 1) General Plan Policy and Zoning Code; and 2) Council Policy CP-09-02, Policy Guidance for Decisions on ELBA Requests Filed by Developers (Attachment 8). A complete detailed evaluation of each request is provided in the attached Planning Commission staff report (Attachment 9).

1. **DAA-05-01J: Mission View-Mission Ranch:** Mission Ranch is a 328 unit single family project located on the west side of Peet Road, east of Mission View Drive. The project has completed 276 -units and currently has 11 under construction. The applicant is requesting a 4-month extension. The applicant's request has been attached (Attachment 10). The applicant has indicated that there has been a delay with finaling the map through the Public Works Department warranting the request.

The final map was approved by City Council on April 1, 2015. The master building plans have been approved and building permits are ready to be issued. The Mylar map for phase 14 is being circulated for signature. The applicant believes that they will meet the June 30, 2015 commencement of construction date but has requested a four month extension in the event of unforeseen delays. In accordance with Council Policy CP 09-02 staff recommends approval of the extension request but would recommend a six month extension to keep the project commencement deadline as either a June or December date for tracking purposes.

2. **DAA-06-04C: Diana-KB Home (Sherimar Ranch):** Sherimar Ranch is a 117 unit single-family detached development located on a 42 acre site on the south side of Diana Avenue between Murphy Avenue and Ringel Drive. The final phase of Sherimar Ranch was awarded 22, FY 2014-15 on-going allotments in February 2013. In March of 2014, Tract map 10171 recorded with 23 lots. The developer at that time, KB homes, immediately constructed homes on 20 of the 23 lots. Lots 1 and 3 remain vacant and lot 2 contains an existing single family home. The construction of homes on lots 1 and 3 would require building allotments. The applicant is requesting a 12-month extension of the remaining two unused building allotments (Attachment 11). The applicant has indicated that a delay has occurred due to family issues.

The Sherimar project has reached Step No. 8 of Council Policy CP-09-02 as a whole but the last two lots are technically at Step No. 5. The circumstance where the two remaining lots have been retained by the original land owner is very unique. The absence of a developer to construct units on the lots creates a circumstance where the lots will be developed as custom lots, which traditionally takes more time to develop. Therefore it is recommended a 12 month extension be granted for the project.

3. **DAA-13-03: Tilton-KB Home (Tilton Park):** The project consists of 46 units on a 7.87-acre site, located on the north side of Tilton Avenue, west of Monterey Road and the Union Pacific Railroad right-of-way. The project was awarded 44 FY 2014-2015 building allotments (+2 existing) as part of the 2012 RDCS competition. The development schedule required the project to commence construction by June 30, 2015 for 44 units.

The final map has been recorded, improvement and master plans approved, and building permits issued to some, but not all of the lots. Portions of the project are currently under construction. Commencement of construction as defined by the City Council RDCS Implementation policy has not been met for all 44 units. The applicant, KB Home is requesting an eight month extension to February 30, 2016 to complete the commencement of construction on all 44 units.

The applicant's letter (Attachment 12) describes the chronology of events for the approval of the entitlements for the project as well as other delays faced during the early stages of construction.

The project has reached Step No. 8 of Council Policy CP-09-02 for some but not all the units. The

project has encountered delays during processing and due to weather conditions therefore staff recommends a six month extension to obtain the building permits and commencement of construction for the 44 FY 2014-2015 allotments.

4. **DAA-13-06: E. Dunne-KB Home (East Dunne Park):** The project consists of 23 units on a ±5 acre site located on the south side of East Dunne Avenue, east of Peppertree Drive and west of Pine Way. The project was awarded 22, FY 2014-2015 building allotments as part of the 2012 RDCS competition. On January 15, 2014 the City Council approved a development schedule for the project as part of the Development Agreement. The development schedule required the project to commence construction by June 30, 2015 for 22 units.

The final map has been recorded, improvement and master plans approved, and building permits issued to some, but not all of the lots. Commencement of construction as defined by the City Council RDCS Implementation policy has not been met for all 22 units. The applicant, KB Home, is requesting an eight month extension to February 28, 2016 to complete the commencement of construction on all 22 units. The applicant's letter (Attachment 13) describes the chronology of events that followed entitlement of the project as well as other delays faced during the early stages of construction.

The project has reached Step No. 8 of Council Policy CP-09-02 for some but not all the units. The project has encountered delays during processing and weather conditions therefore staff recommends a six month extension to obtain building permits and commencement of construction for the 22 FY 2014-2015 allotments.

5. **DAA-13-07: E. MAIN-WILLIAM LYON HOMES (Huntington Sq/Brighton Oaks):** The 110 unit Brighton Oaks project is currently under construction on the south west corner of the intersection of Butterfield Boulevard and E. Main Avenue. To date the project has obtained building permits and commenced construction on 51 units.

The applicant is requesting a five to seven month extension to the commencement of construction deadline (Attachment 14). The extension is needed in order to allow additional time to relocate a joint trench serving one of the existing buildings. To avoid service interruption to the existing building, new facilities had to be installed, which required coordination with PG & E for "tie-in" to the new facilities. Dates were set with PG&E that would have allowed the project to remain on schedule. However, PG&E rescheduled the work, causing a several month delay to the project.

As a Measure A project, the allocations are not tied to specific fiscal years and are not subject to automatic expiration. To date, 80 Measure A allocations have been used, 110 are committed to Brighton Oaks and 30 are committed to the Granary project. Two hundred and eighty Measure A allocations are still available. Since the applicant has worked diligently to meet the schedule terms of the Development Agreement and has been delayed due to PG&E's schedule, a six month extension is recommended to the project's development agreement.

6. **DAA-13-09: Barnell-Cassel:** The Barnell-Cassel project is a four-unit multi-family apartment project located on a 0.23 acre lot on the east side of Barnell Avenue approximately 630 feet north of Spring Avenue. The request is for an amendment to the Development Agreement for a three month extension of the building allotments awarded in February 2013. The applicant needs additional time to secure financing for the small rental project (Attachment 15).

The project has received all processing entitlements and has submitted plans to the Building Division which places the project at Step No. 5 of the Council Policy CP-09-02. Since the project is not at Step No. 6, Council policy requires a finding that there are circumstances beyond the developer's control or circumstance unique to the project. It is recognized that there are known difficulties in developing market rate rental housing and the applicant has made consistent progress with the project. Therefore, it is recommended that a six month extension be granted to keep the project commencement deadline as either a June or December date for ease of tracking.

7. **DAA-13-11: Del Monte-Giovanni:** Del Monte - Giovanni is a six unit single family attached project located on the east side of Del Monte Avenue, approximately 600 feet north of Wright Avenue. The request is for an amendment to the Development Agreement for a six-month extension of the building allotments awarded in February 2013. The project was purchased by a developer new to Morgan Hill, which has delayed the project (Attachment 16).

The project has received all planning entitlements. The master plans, final map and improvement plans have been submitted placing the project at Step No. 5 of the Council Policy CP-09-02. The project is not at Step No. 6; therefore, Council Policy requires a finding that there are circumstances beyond the developer's control or circumstance unique to the project.

The project is unique due to its small size and revisions required to stormwater management provisions on the approved tentative map. Both the previous and new owner/developers, as well as the project engineer, have worked with the City's Public Works Department to resolve stormwater management issues resulting from the filling of a retention pond on-site. A six month extension of the six (6) FY 2014-15 allocations is recommended.

COMMUNITY ENGAGEMENT: Not Applicable

The Development Agreements Amendment requests were published in the Morgan Hill Times for the minimum 10-day public noticing period. Notices were also mailed to property owners within 300 feet of each of the application sites a minimum of 10-days prior to the date of each meeting.

ALTERNATIVE ACTIONS:

Should the Council not agree with the staff and Planning Commission recommendations for approval, each individual extension request can be modified or denied.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On April 14, 2015, the Planning Commission reviewed each of the individual extension requests and has recommended approval consistent with the staff recommendations.

FISCAL AND RESOURCE IMPACT:

Each application request filed paid the appropriate filing fee to cover the cost of processing the application.

CEQA (California Environmental Quality Act):

CEQA has been completed independently for each of the projects discussed in this review. The granting of extensions, allowing a relatively minor change in construction timing, does not in itself have the potential to result in a new environmental impact beyond what was previously considered for each of the individual projects. In accordance with Section 15162 of the CEQA Guidelines (Subsequent Negative Declarations), there is no substantial evidence, in light of the whole record, that the project development agreements as revised may have a significant effect on the environment; therefore no further environmental analysis is required. A Mitigated Negative Declaration/Exemption was adopted for the projects and a Notice of Determination/Exemption was filed.

LINKS/ATTACHMENTS:

1. DAA 05-01J: Mission View-Mission Ranch
2. DAA-06-04F: Diana-Sherimar
3. DAA-13-03: Tilton-KB Home
4. DAA-13-06: E. Dunne-KB Home
5. DAA 13-07: E. Main-William Lyon Homes
6. DAA-13-09: Barnell-Cassel
7. DAA-13-11: Del Monte-Giovanni
8. Council Policy, CP-09-02
9. April 14, 2015 PC staff report
10. Mission Ranch Letter
11. Sherimar Ranch Letter
12. Tilton-KB Home Letter
13. E. Dunne-KB Home Letter
14. William Lyons Homes Letter
15. Barnell-Cassel Letter
16. Del Monte Letter

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE MISSION RANCH PROJECT LOCATED ON THE SOUTH SIDE OF COCHRANE ROAD, EAST OF MISSION VIEW DRIVE AND WEST OF PEET ROAD. THE AMENDMENT EXTENDS THE COMMENCEMENT OF CONSTRUCTION DATES FOR THE 15 FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS FOR SIX MONTHS.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. On June 1, 2005, the City Council adopted Ordinance No. 1726, N.S. which approved a development agreement establishing 'commence construction' dates for a 48 unit portion of the 328-unit project which received allocations from MC 04-26 Cochrane-Mission Ranch.

SECTION 4. The City Council has since adopted Ordinance Nos. 1766, 1826, 1863, 1888, 1918, 1921, 1961, 2001, 2008, 2032, 2119 & 2098 N.S. each amending Ordinance No. 1726.

SECTION 5. On October 22, 2009, the City Council adopted Council Policy CP-09-02, establishing criteria by which to evaluate ELBA requests filed by developers.

SECTION 6. In accordance with Policy CP-09-02, this project has in timely completed at least six of eight steps in the permitting process and has demonstrated a good faith effort in commencing and completing the project. A seven-month processing delay has occurred with the processing of the final map and improvement plans for phase 14 of the Mission Ranch project which was not the result of developer inaction.

SECTION 7. A six month extension of the 15, FY 2014-15 allocations is hereby incorporated into the Development Agreement for MC 04-26: Mission View-Mission Ranch.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 9. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 10. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA 15-01J: Mission View-Mission Ranch as attached in Exhibit "A" of this ordinance.

SECTION 11. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 12. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 13. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 14. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 15. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

Ordinance No. _____, N.S. ()

Page 3

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the _____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit B of the Development Agreement shall be amended as follows:
EXHIBIT B

DEVELOPMENT SCHEDULE MC-04-26: Cochrane-Mission Ranch
FY 2006-07, 18 allocations/FY 2007-08, 17 allocations/FY 2008-09, 18 allocations/ FY 2009-10, 15 allocations/
FY 2010-11, 15 allocations/FY 2011-12, 15 allocations/FY 2012-13, 7 allocations/FY 2014-15, 15 allocations

I. SUBDIVISION AND ZONING APPLICATIONS	
Subdivision Application Filed:	March 25, 2005
Zoning Amendment Application Filed:	March 25, 2005
II. SITE REVIEW APPLICATION	
Application Filed:	July 30, 2005
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	
FY 2006-07 (18 units)	July 30, 2006
FY 2007-08 (17 units)	May 30, 2011
FY 2008-09 (18 units)	May 30, 2013
FY 2009-10 (15 units)	May 30, 2014
FY 2010-11 (15 units)	May 30, 2015
FY 2011-12 (15 units)	May 30, 2016
FY 2012-13 (7 units)	May 30, 2017
FY 2014-15 (15 units)	May 30, 2015
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	
FY 2006-07 (18 units)	Aug. 15, 2006
FY 2007-08 (17 units)	May 30, 2011
FY 2008-09 (18 units)	May 30, 2013
FY 2009-10 (15 units)	May 30, 2014
FY 2010-11 (15 units)	May 30, 2015
FY 2011-12 (15 units)	May 30, 2016
FY 2012-13 (7 units)	May 30, 2017
FY 2014-15 (15 units)	May 30, 2015
V. BUILDING PERMITS	
Obtain Building Permits:	
FY 2006-07 (18 units)	June 30, 2007
FY 2007-08 (17 units)	May 30, 2012
FY 2008-09 (18 units)	May 30, 2013
FY 2009-10 (15 units)	May 30, 2014
FY 2010-11 (15 units)	May 30, 2015
FY 2011-12 (15 units)	May 30, 2016
FY 2012-13 (7 units)	May 30, 2017
FY 2014-15 (15 units)	<i>November 30, 2015</i> May 30, 2015
VI. COMMENCE CONSTRUCTION	
FY 2006-07 (18 units)	Oct. 30, 2007
FY 2007-08 (17 units)	June 30, 2012
FY 2008-09 (18 units)	June 30, 2013
FY 2009-10 (15 units)	June 30, 2014
FY 2010-11 (15 units)	June 30, 2015
FY 2011-12 (15 units)	June 30, 2016
FY 2012-13 (7 units)	June 30, 2017
FY 2014-15 (15 units)	<i>December 30, 2015</i> June 30, 2015

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the

filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 34 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE SHERIMAR RANCH PROJECT LOCATED ON THE SOUTH SIDE OF DIANA AVE, EAST OF HILL ROAD AND WEST OF MURPHY AVE. THE AMENDMENT EXTENDS THE COMMENCEMENT OF CONTRUCTION DATES FOR TWO OF THE 22 FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS FOR TWELVE MONTHS.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. On February 4, 2009, the City Council adopted Ordinance No. 1914, N.S. which approved a development agreement establishing 'commence construction' dates for the 117-unit project which received allocations from MC 12-09: Diana-Sherimar.

SECTION 4. The City Council has since adopted Ordinance Nos. 1983, 2011, 2027 & 2072 N.S. each amending Ordinance No.1914 N.S. each amending Ordinance No.1914.

SECTION 5. On October 22, 2009, the City Council adopted Council Policy CP-09-02, establishing criteria by which to evaluate ELBA requests filed by developers.

SECTION 6. In accordance with Policy CP-09-02, this project the has reached Step eight and the circumstance where two remaining lots have been retained by the original land owner is unique and creates a circumstance where the lots will be developed as custom lots which traditionally takes an additional 12 months to complete.

SECTION 7. A twelve month extension of the 22, FY 2014-15 allocations is hereby incorporated into the Development Agreement for MC 12-09: Diana-Sherimar.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 9. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 10. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA-06-04F: Diana-Sherimar as attached in Exhibit "A" of this ordinance.

SECTION 11. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 12. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 13. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 14. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 15. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the _____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit B of the Development Agreement shall be amended as follows:

EXHIBIT "B"

DEVELOPMENT SCHEDULE MC 04-04, MC-10-03: Diana-Chan, MC 11-07 & MC 12-09 Diana-Sherimar, 5 FY 2007-08 allocations/13 FY 2008-09 allocations/14 FY 2009-10 allocations/31 FY2012-13/29 FY 2013-14/22 FY 2014-15

I. SUBDIVISION AND ZONING APPLICATIONS

Applications Filed:	06-30-06
FY 2012-13 (31 units)	06-30-12
FY 2013-14 (29 units)	06-30-13
FY 2014-15 (22 units)	06-30-14

II. SITE REVIEW APPLICATION

Application Filed:	06-01-10
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III. FINAL MAP Submittal of Map, and Improvements Agreement:

FY 2007-08 (5 units)	10-31-10
FY 2008-09 (13 units)	10-31-10
FY 2009-10 (14 units)	10-31-11
FY 2012-13 (31 units)	10-31-12
FY 2013-14 (29 units)	10-31-13
FY 2014-15 (22 units)	10-31-14

Map, Improvements Agreement and Bonds approved by Council

FY 2007-08 (5 units)	03-30-11
FY 2008-09 (13 units)	03-30-11
FY 2009-10 (14 units)	03-30-12
FY 2012-13 (31 units)	03-30-13
FY 2013-14 (29 units)	03-30-14
FY 2014-15 (22 units)	03-30-15

IV. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check:

FY 2007-08 (5 units)	01-30-11
FY 2008-09 (13 units)	01-30-11
FY 2009-10 (14 units)	01-30-12
FY 2012-13 (31 units)	03-30-13
FY 2013-14 (29 units)	03-30-14
FY 2014-15 (22 units)	03-15-16 03-30-15

V. BUILDING PERMITS

Obtain Building Permits:

FY 2007-08 (5 units)	10-30-11
FY 2008-09 (13 units)	10-30-11
FY 2009-10 (14 units)	05-30-12
FY 2012-13 (31 units)	05-30-13
FY 2013-14 (29 units)	05-30-14
FY 2014-15 (22 units)	05-30-15 05-30-15

I. Commence Construction:

FY 2007-08 (5 units)	12-30-11
FY 2008-09 (13 units)	12-30-11
FY 2009-10 (14 units)	06-30-12
FY 2012-13 (31 units)	06-30-13
FY 2013-14 (29 units)	06-30-14
FY 2014-15 (22 units)	06-30-16 06-30-15

Submitting a Final Map Application or a Building Permit one or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

Failure commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 58 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING AN AMENDED
DEVELOPMENT AGREEMENT FOR THE TILTON-KB
HOME (TILTON PARK) RESIDENTIAL DEVELOPMENT
PROJECT LOCATED ON TILTON AVENUE WEST OF
MONTEREY ROAD**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. On January 15, 2014 the City Council adopted Ordinance Number 2100 which approved a development agreement for 44 RDCS building allotments to the project.

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 6. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 7. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA-13-03: Tilton-KB Home as attached in Exhibit "A" of this ordinance.

SECTION 8. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 9. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 10. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 11. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 12. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE __ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

~ CERTIFICATION ~

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the ____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit B of the Development Agreement shall be amended as follows:

DEVELOPMENT SCHEDULE
MC-12-04: KB Home – FY 2014-2015, 44 allocations

I.	SUBDIVISION APPLICATION Applications Filed:	05-28-13
II.	SITE REVIEW APPLICATION	04-31-14
III.	FINAL MAP SUBMITTAL Map, Improvements Agreement and Bonds: FY 2014-15 (44 units)	07-30-14
IV.	BUILDING PERMIT SUBMITTAL Submit plans to Building Division for plan check: FY 2014-15 (44 units)	10-01-14
V.	BUILDING PERMITS Obtain Building Permits: FY 2014-15 (44 units)	10-01-15 04-01-15
VI.	COMMENCE CONSTRUCTION: FY 2014-15 (44 units)	12-30-15 06-30-15

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 22 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING AN AMENDED
DEVELOPMENT AGREEMENT FOR THE EAST DUNNE-KB
HOME (EAST DUNNE PARK) RESIDENTIAL
DEVELOPMENT PROJECT LOCATED ON EAST DUNNE
AVENUE EAST OF PEPPERTREE DRIVE**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. On January 15, 2014 the City Council adopted Ordinance Number 2098 which approved a development agreement for 22 RDCS building allotments to the project.

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 6. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 7. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA-13-06: E Dunne-KB Home as attached in Exhibit "A" of this ordinance.

SECTION 8. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 9. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 10. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 11. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 12. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE __ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

~ CERTIFICATION ~

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the ____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit B of the Development Agreement shall be amended as follows:

DEVELOPMENT SCHEDULE
MC-12-05: KB Home – FY 2014-2015, 22 allocations

I.	SUBDIVISION APPLICATION Applications Filed:		06-18-13
II.	SITE REVIEW APPLICATION		04-31-14
III.	FINAL MAP SUBMITTAL Map, Improvements Agreement and Bonds: FY 2014-15 (22 units)		07-30-14
IV.	BUILDING PERMIT SUBMITTAL Submit plans to Building Division for plan check: FY 2014-15 (22 units)		10-01-14
V.	BUILDING PERMITS Obtain Building Permits: FY 2014-15 (22 units)	10-01-15	04-01-15
VI.	COMMENCE CONSTRUCTION: FY 2014-15 (22 units)	12-30-15	06-30-15

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 11 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE BRIGHTON OAKS PROJECT LOCATED ON THE SOUTH WEST CORNER OF THE INTERSECTION OF BUTTERFIELD BOULEVARD AND EAST MAIN AVENUE. THE AMENDMENT EXTENDS THE COMMENCEMENT OF CONSTRUCTION DATES BY SIX MONTHS FOR THE REMAINING 59 MEASURE A ALLOCATIONS.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The City Council pursuant to Chapter 18.78.025 of the Morgan Hill Municipal Code, assigned 110 Measure 'A' building allotments to APNS 726-51-001 thru 049, 726-15-001, for application DA 13-07: E. Main-City Ventures.

SECTION 4. On October 16, 2013, the City Council adopted Ordinance No. 2094, N.S. which approved a development agreement establishing 'commence construction' dates for the 110-unit project.

SECTION 5. On October 22, 2009, the City Council adopted Council Policy CP-09-02, establishing criteria by which to evaluate ELBA requests filed by developers.

SECTION 6. In accordance with Policy CP-09-02, the project has reached step eight and the 51 permits pulled to date demonstrate the project is making timely progress. The project has also been subject to delays due to rescheduling by PG & E. The current progress demonstrates good faith effort by the developer in commencing and completing the project.

SECTION 7. A six month extension of the 59 unused Measure A allocations is hereby incorporated into the Development Agreement approved under application DA 13-07: E. Main-City Ventures.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 9. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 10. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA 13-07: E. Main-City Ventures as attached in Exhibit "A" of this ordinance.

SECTION 11. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 12. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 13. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 14. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 15. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the _____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit B of the Development Agreement shall be amended as follows:

EXHIBIT B
COMMENCEMENT OF CONSTRUCTION SCHEDULE

110 Measure 'A' Allocations
City Ventures @ E. Main & Butterfield

I IMPROVEMENT PLAN SUBMITTAL

Improvements Agreement and Bonds:

March 30, 2014

II. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check:

June 30, 2014

III. BUILDING PERMITS

Obtain Building Permits:

Phases 1 (~~23~~ **30** units)

October 30, 2014

Phase 2 (21 units)

January 30, 2015

Phase 3 (~~19~~ **24** units)

October 30, 2015

~~April 30, 2015~~

Phase 4 (~~29~~ **17** units)

January 30, 2016

~~July 30, 2015~~

Phase 5 (~~18~~ **12** units)

April 30, 2016

~~October 30, 2015~~

Phase 6 (6 units)

October 30, 2016

IV. COMMENCE CONSTRUCTION:

The project will be constructed in a maximum of ~~five~~ **six** phases, with the final phase commencing no later than the date below.

Phase 1 = ~~23~~ **30** units (Buildings 15-18 **& 13**)

December 30, 2014

Phase 2 = 21 units (Bldgs. 4, 5 & ~~11~~ **6**)

March 30, 2015

Phase 3 = ~~19~~ **24** units (Bldgs. ~~12-14~~ **9-12**) **December 30, 2015**

~~June 30, 2015~~

Phase 4 = ~~29~~ **17** units (Bldgs. ~~6-10~~ **1, 2 & 7**) **March 30, 2016**

~~September 30, 2015~~

Phase 5 = ~~18~~ **12** units (Bldgs. ~~1-3~~ **3 & 8**) **June 30, 2016**

~~December 30, 2015~~

Phase 6 (6 units) (Bldg. 14)

December 30, 2016

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting Improvement plans or Building Permits (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the Improvement Plan check fee to recoup the additional costs incurred in processing the applications outside the standard time frames. Additionally, failure to meet the Improvement Plan Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must apply for a new development agreement.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE BARNELL-CASSEL PROJECT LOCATED ON THE EAST SIDE OF BARNELL AVENUE, 630 FEET NORTH OF SPRING AVENUE. THE AMENDMENT EXTENDS THE COMMENCEMENT OF CONTRUCTION DATES FOR THE FOUR FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS FOR SIX MONTHS.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. On September 17, 2014, the City Council adopted Ordinance No. 2120, N.S. which approved a development agreement establishing 'commence construction' dates for the 4-unit project which received allocations from MMC-12-01: Barnell-Cassel.

SECTION 5. On October 22, 2009, the City Council adopted Council Policy CP-09-02, establishing criteria by which to evaluate ELBA requests filed by developers.

SECTION 6. In accordance with Policy CP-09-02, the project as a 4 unit market rate rental is unique because market rate rental projects historically face difficulty obtaining financing due to land costs and impact fees required for multi-family rental development. The applicant has worked diligently in obtaining the required financing to complete the project this project.

SECTION 7. A six month extension of the 4, FY 2014-15 allocations is hereby incorporated into the Development Agreement for MMC-12-01: Barnell-Cassel.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 9. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it has found the project exempt from further environmental review pursuant to California Environmental Quality Act (CEQA) Section 15303 of Guidelines for CEQA and

Section 21083 of the Public Resources Code because the project includes the construction of four new residential units on an infill site within an urbanized area.

SECTION 10. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA13-09: Barnell-Cassel as attached in Exhibit "A" of this ordinance.

SECTION 11. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 12. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 13. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 14. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 15. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

❧ CERTIFICATION ❧

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the _____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit B of the Development Agreement shall be amended as follows:

EXHIBIT B
DEVELOPMENT SCHEDULE
MMC-12-01: Barnell-Cassel
4, FY 2014-15 Allocations

I.	DEVELOPMENT AGREEMENT APPLICATION	
	Applications Filed:	09-13-13
II.	SITE REVIEW APPLICATION	
	Application Filed:	04-29-14
III.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check: FY 2014-15 (4 allocations)	12-30-14
V.	BUILDING PERMITS	
	Obtain Building Permits: FY 2014-15 (4 allocations)	09-30-15 03-30-15
VI.	COMMENCE CONSTRUCTION:	
	FY 2014-15 (4 allocations)	12-30-15 06-30-15

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 3 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE DEL MONTE - GIOVANNI PROJECT LOCATED ON THE EAST SIDE OF DEL MONTE AVENUE, 600 FEET NORTH OF WRIGHT AVENUE. THE AMENDMENT EXTENDS THE COMMENCEMENT OF CONTRUCTION DATE SIX MONTHS FOR THE SIX FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. On April 16, 2014, the City Council adopted Ordinance No. 2105, N.S. which approved a development agreement establishing 'commence construction' dates for the 6-unit project which received allocations from MMC 12-03: Del Monte - Giovanni.

SECTION 5. On October 22, 2009, the City Council adopted Council Policy CP-09-02, establishing criteria by which to evaluate ELBA requests filed by developers.

SECTION 6. In accordance with Policy CP-09-02, the project the project has not met step six of Council Policy CP-09-02, but has been found to be subject to unique circumstances and therefore allowed extension under the same policy. The applicant has worked diligently find a builder to complete the project.

SECTION 7. A six month extension of the 6, FY 2014-15 allocations is hereby incorporated into the Development Agreement for MMC 12-03: Del Monte - Giovanni.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 9. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated

Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 10. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA13-11: Del Monte-Giovanni as attached in Exhibit "A" of this ordinance.

SECTION 11. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 12. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 13. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 14. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 15. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 20th DAY OF MAY 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

❧ CERTIFICATION ❧

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. ____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the ____ day of _____, 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "A"

Exhibit C shall be amended as follows:

EXHIBIT C

DEVELOPMENT SCHEDULE

MMC-12-03: DEL MONTE - GIOVANNI – FY 2014-2015, 6 allocations

I. SITE REVIEW APPLICATION

Application Filed 03-31-14

II. FINAL MAP SUBMITTAL

Application Filed **04-07-15** 04-30-14

III. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check:
FY 2014-15 (6 units) **09-30-15** 07-01-14

IV. BUILDING PERMITS

Obtain Building Permits:
FY 2014-15 (6 units) **11-30-15** 04-01-15

V. COMMENCE CONSTRUCTION:

FY 2014-15 (6 units) **12-31-15** 06-30-15

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 4 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-09-02

SUBJECT: POLICY GUIDANCE FOR DECISIONS ON EXCEPTION TO THE LOSS OF BUILDING ALLOCATION (ELBA) REQUESTS FILED BY DEVELOPERS

EFFECTIVE DATE: OCTOBER 22, 2009

ORIGINATING DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT

Under the city's Residential Development Control System (RDCS) ordinance, projects which have been awarded building allocations pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code may apply for an Exception to the Loss of Building Allocation (ELBA) pursuant to Municipal Code Section 18.78.125 G. This section provides that there are two factors that are taken into consideration by the City Council when deciding whether or not to grant an ELBA: 1) that the need for an ELBA is not the result of developer inaction; and 2) that the need for an ELBA is due to circumstances outside of the developer's control.

1) Developer Action/Inaction

A. Developer "Action" is defined by the completion of the following eight steps:

1. Planning applications (Zoning, Tentative Map, Development Agreement, Design Permit/Site Review) submitted
2. Planning applications approved
3. Final map/Improvement plans submitted
4. Final map/Improvement plans approved
5. Master plan check submitted
6. Master plan check approved.
7. Final map/Improvement plans recorded
8. Building permits issued/construction commenced

Projects that have completed steps 1-6 will be considered more favorably for extensions, as those actions demonstrate good faith effort by the developer toward completing the project. The Council will consider evidence of actions taken to move the project forward and keep project entitlements current. Such evidence could include correspondence/application/contract with lenders, builders or banks as well as actions such as keeping building plan checks and CEQA approvals current.

The City Council may consider an extension of allocation for a project that has not completed steps 1-6 but the developer must present evidence of circumstances outside developer control or other circumstances unique to the project that has precluded

developer from completing steps 1-6. Such circumstance could include but not be limited to extended environmental processing requirements, need for information or approval by outside agencies, or a pending City-initiated general or specific plan amendment. A developer must be able to demonstrate timely submittals and that the developer has not contributed to the delay.

2) Circumstance beyond Developer's Control:

The housing market began to slow late in 2007, and by Fall 2008, the economy, housing market, and financial conditions were in severe distress. Without construction loans developers cannot move forward with projects, and consequently developers are unable to meet development schedule deadlines required by the RDCS and Development Agreements. The City Council will recognize the current severe recession in the housing market and lack of bank financing as circumstances for granting ELBAs. Once lending begins to stabilize and construction of residential projects resumes, the Council will no longer recognize lack of bank financing as a circumstance beyond the developer's control.

Stabilization will be generally defined as that at least three Morgan Hill projects (single family) have commenced construction, on phases consisting of at least ten homes, and construction loans are available with a loan to value ("LTV") of between 65% and 70%.

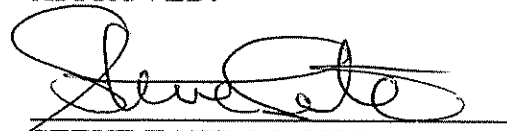
The Council may consider other circumstances beyond the control of the developer, which could be shown as preventing a project from proceeding or obtaining loans, which could still justify a further extension.

3) Payment of Processing Fees

Developers shall pay fees for processing ELBA request and Development Agreement Amendment requests, as applicable in accordance with the City's adopted fee schedule.

This policy shall remain in effect until modified by the City Council.

APPROVED:



STEVE TATE, MAYOR

PLANNING COMMISSION STAFF REPORT

MEETING DATE: APRIL 14, 2015

PREPARED BY: Terry Linder, Steve Golden, Steve Maxey, Planning Division
 APPROVED BY: Andrew Crabtree, Community Development Director

..TITLE

CONSTRUCTION DATE EXTENSION REQUESTS: Development Agreement Amendment, DAA-05-01J: Mission View-Mission Ranch; Development Agreement Amendment, DAA-06-04F: Diana-Sherimar/Martinez; Development Agreement Amendment, DAA-13-03: Tilton-KB Home; Development Agreement Amendment, DAA-13-06: E. Dunne-KB Home; Development Agreement Amendment, DAA-13-07: E. Main-William Lyon Homes; Development Agreement Amendment, DAA-13-09: Barnell-Cassel; Development Agreement Amendment, DAA-13-11: DelMonte-Giovanni

..RECOMMENDATION

RECOMMENDATION(S):

- 1) DAA 05-01J: Mission View-Mission Ranch: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 15, FY 2014-15 allocations.
- 2) DAA-06-04F: Diana-Sherimar: Recommend Council approval of a twelve month extension of the Obtain Building permit and Commence Construction date for 2 of the 22, FY 2014-15 allocations.
- 3), DAA-13-03: Tilton-KB Home: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 44, FY 2014-15 allocations.
- 4) DAA-13-06: E. Dunne-KB Home: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 22, FY 2014-15 allocations.
- 5) DAA 13-07: E. Main-William Lyon Homes: Recommend Council approval of six month extensions to the Obtain Building permit and Commence Construction dates for the remaining 59 units in the project
- 6) DAA-13-09: Barnell-Cassell: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 4, FY 2014-15 allocations.
- 7) Development Agreement Amendment, DAA-13-11: DelMonte-Giovanni: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 6, FY 2014-15 allocations.

..BODY

PROJECT SUMMARY:

1. **Development Agreement Amendment, DAA-05-01J: Mission View-Mission Ranch:**
 The request is for an amendment to the development agreement specifically requesting a four

month extension of the 15 building allotments awarded to the Mission Ranch project, a 328-unit residential project located on the south side of Cochrane Road, east of Mission View Drive and west of Peet Road.

- 2. Development Agreement Amendment, DAA-06-04F: Diana-Sherimar/Martinez:** The request is for an amendment to the development agreement specifically requesting a 12 month extension for two of 22 building allotments awarded to the Sherimar Ranch development, a 117-unit residential project located on the south side of Diana Ave., 600 ft. east of Murphy Ave.
- 3. Development Agreement Amendment, DAA-13-03: Tilton-KB Home:** The request is for an amendment to the development agreement for an eight-month extension of time for 44 building allotments for the project known as "Tilton Park" located on Tilton Ave, west of Monterey Rd.
- 4. Development Agreement Amendment, DAA-13-06: E. Dunne-KB Home:** The request is for an amendment to the development agreement for an eight-month extension of time for 22 building allotments for the project known as "East Dunne Park" located on East Dunne Ave, east of Peppertree Dr.
- 5. Development Agreement Amendment, DAA-13-07: E. Main-William Lyon Homes:** The request is for an amendment to the development agreement for a five to seven month extension of time to the construction start dates for a 110-unit multi-family residential development known as Brighton Oaks located in the south east quadrant of the intersection of E. Main Avenue and Butterfield Boulevard.
- 6. Development Agreement Amendment, DAA-13-09: Barnell-Cassel:** The request is for an amendment to the development agreement for a three month extension of the four building allotments awarded to the four unit multi-family apartment project located on the east side of Barnell Avenue approximately 630 feet north of Spring Avenue.
- 7. Development Agreement Amendment, DAA-13-11: DelMonte-Giovanni:** The request is for an amendment to the development agreement for a six-month extension to allow for the completion of a six-unit subdivision. The property is located on the east side of Del Monte Ave. approximately 600ft. north of Wright Ave.

BACKGROUND:

In preparation for the March RDCS Quarterly report, the following projects were identified as having un-used building allocations that will expire June 30, 2015 (the development agreement amendment applications were subsequently filed, however, are being used here to describe the projects for clarity).

1. Development Agreement Amendment, DAA-05-01J: Mission View-Mission Ranch
2. Development Agreement Amendment, DAA-06-04F: Diana-Sherimar/Martinez
3. Development Agreement Amendment, DAA-09-07: Monterey-Monterey Dynasty
4. Development Agreement Amendment, DAA-06-06F: Monterey-Gunter
5. Development Agreement Amendment, DAA-12-05: E. Main-Calle Siena
6. Development Agreement Amendment, DAA-13-03: Tilton-KB Home
7. Development Agreement Amendment, DAA-13-06: E. Dunne-KB Home
8. Development Agreement Amendment, DAA-13-07: E. Main-William Lyon Homes
9. Development Agreement Amendment, DAA-13-09: Barnell-Cassel
10. Development Agreement Amendment, DAA-13-11: DelMonte-Giovanni

Notices were sent in early February to each project applicant informing them of the pending June 30, 2015 commencement deadline. Applicants unable to commence construction by that date were advised to apply for either a Development Agreement Amendment (DAA) or, if the project has yet to obtain a development agreement, an Exception to Loss of Building Allocation (ELBA).

All notified applicants filed applications to request a DAA; however, three of the ten DAA requests have other requests in addition to development schedule changes. Those applications are: DAA-09-07: Monterey-Monterey Dynasty, DAA-06-06F: Monterey-Gunter and DAA-12-05: E. Main-Calle Siena. Due to their unique requests, they are discussed in separate, individual staff reports.

Each of the seven remaining DAA requests are further discussed below. Letters of request from the applicants are attached at the end of this report and labeled to correspond with their individual requests as designated within this report.

ANALYSIS:

All of the requests were evaluated based upon 1) General Plan Policy and Zoning Code; and 2) Council Policy CP-09-02, Policy Guidance for Decisions on ELBA Requests Filed by Developers. The following summarizes the general plan policies and council policy as it relates to extensions to commencement of construction deadlines for RDCS projects as well as an evaluation for each request based on these policies.

1) General Plan Policy and Zoning Code

Pursuant to General Plan page 27, Requirement of Development Allotments for all Residential Development and per Morgan Hill Municipal Code Section 18.78.125(G), *"An exception to the loss of allotment may be granted by the city council if the cause for the lack of commencement was the city's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, delays not the result of developer inaction, or allotment appeals processing."*

2) City Council Policy

The City Council further refined the criteria for evaluating ELBA requests in Council Policy CP-09-02, Policy Guidance for Decisions on ELBA Requests Filed by Developers (attached). This Policy establishes direction to staff on which factors may be considered in the granting of extensions (either through an ELBA or through a Development Agreement Amendment which would result in an Exception to a Loss of Building Allocation), specifically stating that the need for an extension must not be due to developer inaction and that the need for an extension must be due to circumstances beyond the developer's control. The Policy provides a definition of developer action, identifying eight steps in the entitlement process to consider and also provides a definition of one circumstance, economic hardship, which may be justification for a delay.

In reference to the eight identified steps in the entitlement process, the Policy states *"Projects that have completed steps 1-6 will be considered more favorably for extensions, as those actions demonstrate good faith effort by the developer toward completing the project."* Steps 1-6 include submitting and obtaining the following: Planning entitlements, final map/improvement plans and master plan check.

1. DAA-05-01J: Mission View-Mission Ranch

Mission Ranch is a 328 unit single family project located on the west side of Peet Road, east of Mission View Drive. The project has completed 276-units and currently has 11 under construction. The applicant is requesting a 4-month extension. The applicant's letter of request is

attached as "Letter 1". The reason given for the delay is the backlog (seven months) in Public Works Department processing of the final map for Phase 14.

The final map has been approved by City Council (4/1/15), the master building plans are approved and permits are ready to issue. The Mylar map for phase 14 is currently circulating for signature. The applicant believes that they are likely to meet the current June 30, 2015 commencement of construction date but has requested a four month extension just in case there are any other unforeseen delays. In accordance with Council Policy 09-02 staff recommends approval of the extension request but would recommend a six month extension to keep the project commencement deadline as either a June or December date for tracking purposes.

Development Schedule for Mission Ranch

Obtain Building Permit	Original Dates	Current Request	Staff Recommendation
FY 2014-15 Phase 14 (15 units)	05-30-15	05-30-12 (+4 mo)	+6 month extension 11-30-15

Commence Construction	Original Dates	Current Request	Staff Recommendation
FY 2014-15 Phase 14 (15 units)	06-30-15	09-30-15 (+4 mo)	+6 month extension 12-30-15

2. DAA-06-04C: Diana-Kb Home (Sherimar Ranch)

Sherimar Ranch is a 117 unit single-family detached development located on a 42 acre site on the south side of Diana Ave. between Murphy Avenue and Ringel Drive. The final phase of Sherimar Ranch was awarded 22, FY 2014-15 on-going allocations in February 2013. In March of 2014, Tract map 10171 recorded with 23 lots. The developer at that time, KB homes, immediately constructed homes on 20 of the 23 lots. Lots 1 and 3 remain vacant and lot 2 contains an existing single family home. The construction of homes on lots 1 and 3 would require building allocations. The applicant (see attached "Letter 2") is requesting a 12-month extension of the remaining two unused building allocations. The reason given for the delay is the family had a falling out with the original developer and an emergency illness with a family member had also delayed progress in hiring an architect and proceeding with building plans.

As previously mentioned the tract map has recorded to create the lots, which is Step 7 of the Council Policy. KB Homes had clearly moved to Step 8 on 20 of the lots but now the applicant/owner of lots 1 and 3 must redo steps 5 (building permit submittal) and 6 (building permit approval). Since the original builder is no longer involved in the project, the lots are left to the original property owners to develop as custom lots. Traditionally custom lot developments were granted an extra year for lots sold off to individuals and not completed by the original developer. The reason for the extra time was recognition of the extra time it took an individual lot owner to select an architect, have plans drafted, submitted to and approved by the City. The Sherimar project has reached Step 8 as a whole but the last two lots are technically at Step 5. The circumstance where the two remaining lots have been retained by the original land owner is unique. The absence of a developer to construct units on the lots creates a circumstance where the lots will be developed as custom lots, which traditionally takes more time to develop. Therefore it is recommended a 12 month extension be granted for the project.

Development Schedule for Sherimar Ranch

Obtain Building Permits	Original Date	Current Request	Staff Recommendation
FY 2014-15 (22 units)	05-30-15	05-30-16 (+12mo)	Concur with applicants request

Commence Construction	Original Dates	Current Request	Staff Recommendation
FY 2014-15 (22 units)	06-30-15	06-30-16 (+12mo)	Concur with applicants request

Building Permit Submittal	Original Date	Current Request	Staff Recommendation
FY 2014-15 (22 units)	03-30-15	03-30-16 (+12 mo)	Concur with applicants request

3. DAA-13-03: Tilton-KB Home (Tilton Park):

The project consists of 46 units on a 7.87-acre site, located on the north side of Tilton Avenue, west of Monterey Road and the Union Pacific Railroad right-of-way. The project was awarded 44 FY2014-2015 building allotments as part of the 2012 RDCS competition. The project qualified for two exempt units from the RDCS for replacement of existing single family dwellings per City Council Policy CP-07-04 (Residential Development Control System Implementation Policies). On January 15, 2014 the City Council approved a development schedule for the project as part of the development agreement. The development schedule required the project to commence construction by June 30, 2015 for 44 units.

The final map has been recorded, improvement and master plans approved, and building permits issued to some, but not all of the lots. Portions of the project are currently under construction. Some, but not all public improvements and common area improvements (e.g. public and private streets), have been completed and commencement of construction has begun on some of the units. Therefore, commencement of construction as defined by the Council's policy for all 44 units has not been met. The applicant, KB Home is requesting an eight month extension to February 30, 2016 to complete the commencement of construction on all 44 units. The applicant's letter (see attached "Letter 3") describes the chronology of events that followed the Planning Commission's and Council's approval of the entitlements for the project as well as other delays faced during the early stages of construction.

The project has reached at least Step 7 of 8 as described in Council Policy CP-09-02. As described in the applicant's letter, subsequent to approval of the improvement plans and master plan, installation and completion of public utilities and roadway paving were delayed due to the December period rain events and therefore ultimately delayed the commencement of construction of the units. While potential wet weather is likely during the winter months and this delay was not necessarily unforeseen, the effects were certainly outside of the developer's control. Based on Council Policy CP-09-02, the project should be considered favorably for an extension to the

commencement of construction deadline. Staff recommends that the Planning Commission recommend a six month extension to obtain the building permits and commencement of construction for the 44 FY2014-2015 allotments which is comparable to the delays in the project not due to the developer's inaction and also equivalent to commencement of construction deadlines of other projects.

Development Schedule for Tilton Park

Obtain Building Permits	Original Date	Current Request	Staff Recommendation
FY 2014-15 (44 units)	04-01-15	12-01-15 (+8mo)	Staff recommends a +6-month extension to 10-01-15

Commence Construction	Original Date	Current Request	Staff Recommendation
FY 2014-15 (44 units)	06-30-15	02-30-15 (+8mo)	Staff recommends a +6-month extension to 12-01-15

4. DAA-13-06: E. Dunne-KB Home (East Dunne Park):

The project consists of 23 units on a ±5 acre site located on the south side of East Dunne Avenue, east of Peppertree Drive and west of Pine Way. The project was awarded 22 FY2014-2015 building allotments as part of the 2012 RDCS competition. The project qualified for one exempt unit from the RDCS for replacement of existing single family dwellings per City Council Policy CP-07-04 (Residential Development Control System Implementation Policies). On January 15, 2014 the City Council approved a development schedule for the project as part of the development agreement. The development schedule required the project to commence construction by June 30, 2015 for 22 units.

The final map has been recorded, improvement and master plans approved, and building permits issued to some, but not all of the lots. Portions of the project are currently under construction. Some, but not all public improvements and common area improvements (e.g. public and private streets) have been completed and commencement of construction has begun on some of the units. Therefore, commencement of construction as defined by the Council's policy for all 22 units has not been met. The applicant, KB Home, is requesting an eight month extension to February 30, 2016 to complete the commencement of construction on all 22 units. The applicant's letter (see attached "Letter 4") describes the chronology of events that followed the Planning Commission's and Council's approval of the entitlements for the project as well as other delays faced during the early stages of construction.

The project has reached at least Step 7 of 8 as described in Council Policy CP-09-02. As described in the applicant's letter, subsequent to approval of the improvement plans and master plan, installation and completion of public utilities and roadway paving were delayed due to the December period rain events and therefore ultimately delayed the commencement of construction of the units. While potential wet weather is likely during the winter months and this delay was not necessarily unforeseen, the effects were certainly outside of the developer's control. Based on Council Policy CP-09-02, the project should be considered for a favorably for an extension to the commencement of construction deadline. Staff recommends that the Planning Commission recommend a six month extension to obtain the building permits and commencement of

construction for the 22 FY2014-2015 allotments which is comparable to the delays in the project not due to the developer's inaction and also equivalent to commencement of construction deadlines of other projects.

Development Schedule for East Dunne Park

Obtain Building Permits	Original Date	Current Request	Staff Recommendation
FY 2014-15 (22 units)	04-01-15	12-01-15 (+8mo)	Staff recommends a +6-month extension to 10-01-15

Commence Construction	Original Date	Current Request	Staff Recommendation
FY 2014-15 (22 units)	06-30-15	02-30-15 (+8mo)	Staff recommends a +6-month extension to 12-01-15

5. DAA-13-07: E. MAIN-WILLIAM LYON HOMES (Huntington Sq/Brighton Oaks)

The 110 unit Brighton Oaks project is currently under construction on the south west corner of the intersection of Butterfield Boulevard and E. Main Avenue. To date the project has obtained building permits and commenced construction on 51 units.

The applicant (see attached "Letter 5") is requesting a five to seven month extension to the commencement of construction deadlines within the project development agreement. The reason given for the delay is the need to relocate a joint trench serving one of the existing buildings. To avoid service interruption to the existing building, new facilities had to be installed, which required coordination with PG & E for "tie-in" to the new facilities. Dates were set with PG & E that would have allowed the project to remain on schedule. However PG & E rescheduled the work, causing a several month delay to the project.

The project is within the Downtown and the allocations assigned are from the 500 allocations set-aside by Measure A. The Measure A allocations do not have expirations similar to the regular RDCS allocations. The purpose of the Measure A development agreement deadlines is to monitor timely progress in the use of the allocations. As previously mentioned, the project has commenced construction on 51 of the 63 units that were to be commenced by June 30, 2015 per the current agreement. As a Measure A project, the allocations are not tied to specific fiscal years and are not subject to automatic expiration. To date, 80 Measure A allocations have been used, 110 are committed to the Brighton Oaks and 30 are committed to the Granary project. Two hundred and eighty Measure A allocations are still available. Since the applicant has worked diligently to meet the schedule terms of the development agreement, and was delayed by PG & E, adjustment to the commencement dates is recommend as shown in the following table. Six month extensions are recommended so the project's development agreement can be tracked along with other agreements having 12-30-16 commencement dates.

Development Schedule For Brighton Oaks

Commence Construction	Original Dates	Current Request		Staff Recommendation
Phase I 23 units	12-30-14	30 units (+7 units)		Concur with applicant's request to redistribute units in phase
Phase 2 21 units	03-30-15			
Phase 3 19 units	06-30-15	24 units (+5 units)	11-30-15 (+5 mo)	Concur with applicant's request to redistribute units in phase and recommend 6 month extension
Phase 4 29 units	09-30-15	17 units (-12 units)	02-30-16 (+5 mo)	Concur with applicant's request to redistribute units in phase and recommend 6 month extension
Phase 5 18 units	12-30-15	12 units (-6 units)	05-30-16 (+5 mo)	Concur with applicant's request to redistribute units in phase and recommend 6 month extension
Phase 6 6 units	NA	6 units	07-30-16 (+7 mo)	Concur with applicant's request to redistribute units in phase and recommend 6 month extension

6. DAA-13-09: Barnell-Cassel:

The Barnell-Cassel project is a four-unit multi-family apartment project located on a .23 acre lot on the east side of Barnell Avenue approximately 630 feet north of Spring Avenue. The request is for an amendment to the development agreement for a three month extension of the building allotments awarded in February 2013. The reason cited for the delay is the need to form a new partnership for the purposes of financing and the difficulty of securing financing for a small rental project with the “economic burden” of the RDCS fees and the City impact fees (see attached “Letter 6”).

The project has received all processing entitlements and has submitted plans to the Building Division which places the project at Step 5 of the Council policy. Since the project is not at Step 6, Council policy requires finding that there are circumstances beyond the developer's control or circumstance unique to the project.

The last market rate rental development in Morgan Hill was completed in 1999 and included 50 units. Since then all rental projects that have been completed have been 100 percent affordable. Staff has repeatedly heard from rental developers (big and small) that they cannot pursue market rate rentals in Morgan Hill due to the high cost of development (land cost + fees) and the need to finance those fees over several years of project income. The applicant has been very diligent in pursuing alternatives for the financing and deferral of impact fees and RDCS fees.

The project is unique because of its small size and is the first market rate rental project in the last 15 years. The project will also infill one of the last remaining vacant lots along Barnell Avenue and would also eliminate a problem spot for law enforcement. Given the known difficulties for development of market rate rental housing and the fact that the applicant has made consistent progress in moving a market rate rental project to reality, it is recommended that a six month extension be granted to keep the project commencement deadline as either a June or December date for ease of tracking.

Development Schedule For Barnell-Cassel

Obtain Building Permit	Original Date	Current Request	Staff Recommendation
FY 2014-15 4 units	03-30-15	06-30-15 (+3 mo)	+6 month extension 09-30-15

Commence Construction	Original Date	Current Request	Staff Recommendation
FY 2014-15 (4 units)	06-30-15	09-30-15 (+3 mo)	+6 month extension 12-30-15

7. DAA-13-11: Del Monte-Giovanni

Del Monte - Giovanni is a six unit single family attached project located on the east side of Del Monte Avenue, approximately 600 feet north of Wright Avenue. The request is for an amendment to the development agreement for a six-month extension of the building allotments awarded in February 2013. The reason cited for delay (see attached "Letter 7") is the purchase of the project by a developer new to Morgan Hill and the associated need to finalize contracting with a builder.

The project has received all planning entitlements and has submitted a final map and improvement plans to the public works department, placing the project at Step 3 of Council Policy CP-09-02. Since the project is not at Step 6, Council policy requires finding that there are circumstances beyond the developer's control or circumstance unique to the project.

The project is unique due to its small size and revisions required to stormwater management provisions on the approved tentative map. Both the previous and new owner/developers, as well as the project engineer, have worked with the City's public works department to establish a solution to the need for stormwater management resulting from filling the existing retention pond on site. One additional aspect of this effort was the integration with two larger development projects north of the subject site to develop a more comprehensive stormwater management system in the area.

Development Schedule for Del Monte - Giovanni

Commence Construction	Original Dates	Current Request	Staff Recommendation
FY 2014-15 Phase 14 (15 units)	06-30-15	12-30-15 (+6 mo)	+6 month extension 12-30-15

Obtain Building Permit	Original Dates	Current Request	Staff Recommendation
FY 2014-15 Phase 14 (15 units)	05-30-15	11-30-15 (+6 mo)	+6 month extension 11-30-15

Community Engagement

The proposed development agreement amendments were publicly noticed (mailing to property owners within 300 feet of the project and newspaper posting) for the minimum 10-day period.

Conclusion

The projects identified above are all requesting to amend their individual development agreement by modifying the development schedule by extending the commencement of construction deadline. Each project has been evaluated based on existing general plan, zoning code, and City Council policy. Based on these evaluations, staff recommends Planning Commission approval of the attached resolutions recommending the following:

- 1) DAA 05-01J: Mission View-Mission Ranch: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 15, FY 2014-15 allocations.
- 2) DAA-06-04F: Diana-Sherimar: Recommend Council approval of a twelve month extension of the Obtain Building permit and Commence Construction date for two of the 22, FY 2014-15 allocations.
- 3) DAA-13-03: Tilton-KB Home: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 44, FY 2014-15 allocations.
- 4) DAA-13-06: E. Dunne-KB Home: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 22, FY 2014-15 allocations.
- 5) DAA 13-07: E. Main-William Lyon Homes: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 59 remaining Measure A allocations.
- 6) DAA-13-09: Barnell-Cassell: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 4, FY 2014-15 allocations.
- 7) DAA-13-11: DelMonte-Giovanni: Recommend Council approval of a six month extension of the Obtain Building permit and Commence Construction date for the 15, FY 2014-15 allocations.

CEQA (California Environmental Quality Act):

Project, Description of CEQA requirements

Environmental review, pursuant to the requirements of CEQA, has been completed independently for each of the projects discussed in this review. The granting of extensions, allowing a relatively minor change in construction timing, does not in itself have the potential to result in a new environmental impact beyond what was previously considered for each of the individual projects. In accordance with Section 15162 of the CEQA Guidelines (Subsequent Negative Declarations), there is no substantial evidence, in light of the whole record, that the project development agreements as revised may have a significant effect on the environment; therefore no further environmental analysis is required. A Mitigated Negative Declaration/Exemption was adopted for

the projects and a Notice of Determination/Exemption was filed.

LINKS/ATTACHMENTS:

Council Policy, CP-09-02

Policy Guidance for Decisions on ELBA Requests Filed by Developers

Applicant Letters 1-7

Resolutions 1-7

ATTACHMENT 10

DEVELOPMENT
SERVICES

MAR 18 2015

CITY OF MORGAN HILL

MISSION RANCH LP
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037
PHONE: (408) 779-5900 / FAX: (408) 779-3840
roliver@dividendhomes.com

March 19, 2015

Ms. Terry Linder
City of Morgan Hill - Community Development
17555 Peak Avenue,
Morgan Hill, CA 95037

Re: Development Agreement for Mission Ranch Phase 14

Dear Terry:

It seems that we may need an extension of our building allocation for Mission Ranch Phase 14, which is required to commence construction on 15 lots by June 30th, 2015.

We submitted the final map for Tract 10272 and improvement drawings back in September of 2014, believing that we would have plenty of time; however, due to the back-log of work in Engineering, they are just now completing the plan check, after a month (or more) delay. We are still hopeful that we will be able to meet the deadline without an extension, but your letter dated February 20th reminded us of the need to file an application for an extension by March 20th as a preemptive measure if an extension becomes necessary.

Our map is scheduled for City Council approval on April 1st, and building plans have previously been approved. We will pull permits as soon as the Final Map is released and recorded. Accordingly, a four month extension would be more than adequate to address any further unforeseen delays.

Please let me know if there is anything else that I need to do in this regard.

Very truly yours,

Mission Ranch, LP

By: 
Richard B. Oliver

Its: President of Mission Ranch LLC,
General Partner of Mission Ranch LP

Attached: Uniform Application for an ELBA

ATTACHMENT 11

DEVELOPMENT
SERVICES

MAR 18 2015

CITY OF MORGAN HILL

March 18th, 2015

This letter is to submit for a Development Agreement Amendment for building allocations for Section 18.78.125 (G) of the Measure C Ordinance. Commence deadline building allotment June 30th, 2015.

The remaining custom lots from the Sherimar Ranch project. Lot 1 and Lot 3. The Seller, the Martinez Family, (Albert, Janet and Donna) remained owners of Lots 1, 2 & 3 when they sold to KB Homes phase 4. The **existing home on Lot 2**, remains the family home. This home was never intended to be demoed, which is a question if it needed an allocation. Guess, Terri Linder would know that question.

Background on Lots 1 & 3, when the Martinez Family went into contract with KB Homes, originally KB was going to build them homes on Lot 1 and 3 but due to complications between Owner and Buyer this vision fell through. We also had some contract land issues with KB Homes after the sale that unfortunately made us fall behind on pulling building permits on Lot 1 or Lot 3. We also, had a set back with a family member having an emergency illness this past year.

As of this date, March 18th, 2015, the family has Residential Designer Company moving forward with building plans for Lot 1. Unfortunately, those plans will not be ready to commence building by the deadline date, June 30th, 2015. Lot 1 to be commencement 2015-2016, thereafter Lot 3. We are asking for an extension on the building allotments 1 & 3.

Regards,


The Martinez Family
Albert Martinez
Janet Martinez
Donna Martinez

DAA-06-04F. DIANA KB/SHERIMAR

ATTACHMENT 12

Item # 22



DEVELOPMENT
SERVICES

MAR 20 2015

CITY OF MORGAN HILL

March 19, 2015

Reason For Development Approval Amendment Request

We are respectfully asking for a Development Approval Amendment. Specifically we are requesting an extension of time for Commencement of Construction. While the majority of our site will meet the 6-30-15 Commencement of Construction date, there will be a few lots that will not. We would not want to lose those allocations as we are very close to completion. We would like to request an extension of 8 months, February 30, 2016, to allow for unforeseen weather conditions that might occur while we are trying to commence construction.

The chronology of plan submittals:

The Improvement plans & Final Map:

1st submittal: 2/14/14

Final approved plans were stamped 10/3/14

The Master Plan:

1st submittal: 2/19/14

Final approved plans were stamped 10/6/14

There were a few reasons we have been unable to complete the project in time. The weather was a problem for paving during the winter. The substantial early rains in December wouldn't allow the site soil to dry out. This in turn kept us from installing the underground utilities and commence grading. We were unable to complete the road paving until March 13, 2015. This then held up the construction of the model homes so we are unable to open the models until April 4, 2015.

There is also a requirement that we install a cross walk at the intersection of Monterey Rd and Tilton Ave. This has gotten the UPRR involved. We submitted the first plans to the UPRR on Aug. 12, 2014 and are still working with them to finalize the construction documents to allow for the crosswalk.

In the City of Morgan Hill the Building Permit Fees and School Developer Fees are all based on the Bedroom & Bathroom count. In a KB Home project we have several options that the home buyer can choose. These options affect the bedroom and bathroom counts. We do not want to pull the permits nor start construction before the house is sold so the home buyer can choose what they would like to buy, making for a happy community.

We have had many potential buyers contact us about the future homes and anticipate no problem with future sales.

Respectfully yours,

A handwritten signature in dark ink, appearing to read 'Michelle Fisk', written over a horizontal line.

Michelle Fisk
Sr. Forward Planner
KB Home Bay Area

**DAA-13-03: TILTON-KB HOME
(TILTON PARK)**

ATTACHMENT 13

Item # 22



DEVELOPMENT
SERVICES

MAR 20 2015

CITY OF MORGAN HILL

March 19, 2015

Reason For Development Approval Amendment Request

We are respectfully asking for a Development Approval Amendment. Specifically we are requesting an extension of time for Commencement of Construction. While the majority of our site will meet the 6-30-15 Commencement of Construction date, there will be a few lots that will not. We would not want to lose those allocations as we are very close to completion. We would like to request an extension of 8 months, February 30, 2016, to allow for unforeseen weather conditions that might occur while we are trying to commence construction.

The chronology of plan submittals:

The Improvement plans & Final Map:

1st submittal: 1/20/14

2nd submittal: 6/16/14

3rd Submittal: 8/8/14

Final approved plans were stamped 9/5/14

The Master Plan:

1st submittal: 2/7/14

2nd submittal: 6/14/14

3rd Submittal: 7/1/14

Final approved plans were stamped 9/9/14

There were a few reasons we have been unable to complete the project in time.

The weather was a problem for paving during the winter. The substantial early rains in December wouldn't allow the site soil to dry out. This in turn kept us from installing the underground utilities and commence grading. We were unable to complete the road paving until Feb. 13, 2015. This then held up the construction of the model homes so we unable to open the models until Feb. 28, 2015.

In the City of Morgan Hill the Building Permit Fees and School Developer Fees are all based on the Bedroom & Bathroom count. In a KB Home project we have several options that the home buyer can choose. These options affect the bedroom and bathroom counts. We do not want to pull the permits nor start construction before the house is sold so the home buyer can choose what they would like to buy, making for a happy community.

Since the opening of the project on Feb. 28, 2015 we have sold 5 units. We currently have many potential buyers and anticipate no problem with future sales.

Respectfully yours,

A handwritten signature in dark ink, appearing to be 'M Fisk', with a horizontal line extending to the right.

Michelle Fisk

Sr. Forward Planner

KB Home Bay Area

DAA-13-06: E. DUNNE-KB HOME



William Lyon Homes, Inc.

CITY OF MORGAN HILL

MAR 13 2015

DEVELOPMENT
SERVICES

March 13, 2015

Ms. Leslie Little
Assistant City Manager
City of Morgan Hill
17575 Peak Ave
Morgan Hill, CA 95037

RE: Amendment to Huntington Square/ Brighton Oaks Development Agreement

Dear Leslie,

As you are aware, we are well underway in the development and construction of the Brighton Oaks project. We are planning our grand opening on March 28th, 2015 and have begun construction on several phases of production buildings. In addition, we have been very careful to maintain services to the 2 existing buildings during our land development process.

During our installation of underground utilities, we have discovered that we need to relocate certain existing joint trench facilities that service the 2 buildings. To do accomplish this, while at the same time maintain service to the 2 buildings, we have installed new facilities in an alternate location and are waiting for PG&E to 'tie in' the new facilities so that the old facilities can be de- energized and removed.

Several months ago, we set goal dates with PG&E for the 'tie- in' occur in the month of March so that we could complete the remaining underground utilities and proceed with construction per the terms of the Development Agreement. Unfortunately, PG&E has delayed the 'tie- in' schedule by several months, and we are, therefore, requesting an extension for our construction start dates for several of our buildings.

Please find immediately below a table summarizing the existing Development Agreement timetables and also summarizing our new proposed dates. I have also included with this application and letter a revised phasing map as an exhibit to how we propose the construction be modified.

Existing Development Agreement				
Phase Number	Number of Units	Buildings	Pull Permits	Start Construction

Page 1 of 2



William Lyon Homes, Inc.

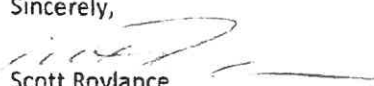
Phase 1	23 units	Building 15 – 18	October 30 th , 2014	December 30 th , 2014
Phase 2	21 units	Building 4, 5, & 11	January 30 th , 2015	March 30 th , 2015
Phase 3	19 units	Building 12 – 14	April 30 th , 2015	June 30 th , 2015
Phase 4	29 units	Buildings 6 – 10	July 30 th , 2015	September 30 th , 2015
Phase 5	18 units	Buildings 1 – 3	October 30 th , 2015	December 30 th , 2015

Existing Development Agreement				
<i>Phase Number</i>	<i>Number of Units</i>	<i>Buildings</i>	<i>Pull Permits</i>	<i>Start Construction</i>
Phase 1	30 units	Building 15 – 18, & 13	October 30 th , 2014	December 30 th , 2014
Phase 2	21 units	Building 4, 5, & 6	January 30 th , 2015	March 30 th , 2015
Phase 3	24 units	Building 9 - 12	April 30 th , 2015	June 30 th , 2015 for Buildings 9 and 11 November 30 th , 2015 for Buildings 10 and 12
Phase 4	17 units	Buildings 1, 2, and 7	July 30 th , 2015	February 30 th , 2016
Phase 5	12 units	Buildings 3 and 8	October 30 th , 2015	May 30 th , 2016
Phase 6	6 units	Building 14	October 30 th , 2015	July 30 th , 2016

Thank you for your assistance and please let me know if you have questions. Could you please schedule us for the appropriate City Council meeting?

Thanks!

Sincerely,


Scott Roylance

William Lyon Homes, Inc

ATTACHMENT 15

CASITAS NUEVAS, LLC
 1654 The Alameda, Suite 200
 San Jose, CA 95126

DEVELOPMENT
 SERVICES

APR 14 2015

CITY OF MORGAN HILL

March 19, 2015

City of Morgan Hill
 Development Services Department
 17575 Peak Avenue
 Morgan Hill, CA 95037

Subject: Development Agreement Amendment, September 17, 2014

Project: Casitas Nuevas, 16860 Barnell Ave

DA-13-09
 MMC-12-01/DA-13-0: Barnell-Cassel/SR 14-06: Barnell-Basile

Gentlepersons,

The ownership of the above referenced project is being transferred to the newly formed Casitas Nuevas, LLC, whose members are the same persons who signed the Development Agreement, approved by the Community Development Agency on September 17, 2014.

Since that approval we have moved diligently exploring construction financing requirements and mortgage availability. That process took longer than expected. We have at this point presented documentation for our construction financing with confidence that the lender will indeed provide the required funding as they have given no indication to the contrary. However the process, while underway, has no defined approval or loan funding date.

A condition of financing required the formation of the new entity to take ownership of the property as borrower. That legal process took more the 60 days before the State approved the organization of Casitas Nuevas, LLC on February 20, 2015.

Construction documents and working drawings are ready to be submitted to the Building Department for plan check and permitting on or before March 25, 2015.

During the Community Development Agency's approval meeting on this four unit rental micro project the developers and Agency officers discussed the economic burden of the RDCS Fees and the Impact Fees. It was noted that nothing can be done about the RCDS fees, but some assistance might was agreed upon to relieve the immediate burden of the Impact fees on this nano project. I am appreciative that the Agency agreed to ask staff to look into possible relief mechanism. The search for a possible method is just now beginning.

Exhibit "B" of the Development Agreement gives the project until June 30, 2015 to begin construction. The failure to commence construction on that date as clearly defined by the City memorandum "will result in the loss of all building allocations."

The submittal of the plans required for construction will have begun, as noted above, within the week. After review by the City Departments and approval of the final, corrected, construction working drawings the funds needed to pay for the permits are in place and under my control. However, I am not in control of the approval timing of the construction financing, nor the timing of the discussion and decision of a possible relief mechanism for the Impact fees.

It is possible, but highly unlikely, that all the loose ends will come together in time to meet the June 30, 2015 date, which has always been my goal. However in the event that date cannot be kept, I am requesting an Amendment to our Development Agreement and an extension of the commencement date to September 31, 2015.

Respectfully,

A handwritten signature in cursive script that reads "Louis A. Basile".

Louis A. Basile

Manger

ATTACHMENT 16

March 19, 2015

Attn: Charlie Ha & Steve Maxey
Morgan Hill Public Works & Planning Dept.
17575 Peak Avenue
Morgan Hill, CA. 95037

RE: Del Monte 6 Lot subdivision and 6 month Extension request

The intent of this letter is to outline the rationale and necessity of the above request. On March 15, 2015 we finished signing the last of the Counter, finalized the Contract to purchase the above mentioned property with the intention of going into a Building program and completing the project as soon as possible.

By the 27th of this month we will have the Final Map completed by MH Engineering and turned in to Public Works for review and comments, the building plans from Gary Moore & Associates have received architectural and site approval and are currently being engineered for completion and subsequent submittal to the Building Department for comments and changes if any. We have met with Staff several times to gain insight on the process necessary to move forward and with Randy Kirk (Kirk Enterprises) to build the project and he is aware of the Insurance & Bonding requirements the City has for the On & Off-site Improvements needing to be made to progress to building pads, foundations and Home completion.

This will be our first development in the City of Morgan Hill, and there is a great learning curve to be understood, digested and implemented to make this project a successful one. That in mind, we would require some additional time to make sure that all of the submittal requirements are met and changes required by the City can be understood and made. We are confident that completion of these filing schedules can be made so commencement of the project can begin, but we just want some time for comprehension and full understanding. We know and understand that performance and completion are foremost and will have the other necessary documents as soon as possible.

If there are any questions about the above please do call.

Respectfully:

Goumin Li
(408) 219-1686

DAA-13-11: DEL MONTE-GIONANNI

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